

Tested by this rule, there can be no question but that the lands here in question are public property and on the facts stated in your communication it is likewise clear that this property is being used for a public purpose; and that as public property used for a public purpose this property is rightfully exempt from taxation.

With respect to the question presented in your communication as to whether or not, in this situation, the Mahoning Valley Sanitary District can be required to reimburse the Weathersfield Rural School District for a proportionate amount of such outstanding school district bonds, on account of the exemption from taxation of the lands here in question, I know of no principle of law, either statutory or otherwise, which requires this to be done. The situation of the Weathersfield Township Rural School District with respect to these exempted lands is no different than would be the situation if these lands, by competent and lawful administrative action, had been transferred to another school district. In such case, although the lands so transferred would be required to bear the burden of taxes imposed to retire bonds issued by the school district to which they were transferred, they could not legally be assessed for taxes to retire outstanding bonds issued by the district from which they were transferred.

On the consideration above noted, I am of the opinion that the Weathersfield Township Rural School District does not have a claim of any kind against the Mahoning Valley Sanitary District with respect to the exemption from taxation of the lands here in question; and, moreover, I am of the opinion that the Tax Commission of Ohio can not, by reconsideration of its former orders, or otherwise, impose any conditions with respect to the exemption of these lands, so far as the outstanding bonds of the school district are concerned.

Respectfully,

GILBERT BETTMAN,
Attorney General.

4176.

APPROVAL, ABSTRACT OF TITLE TO LAND OF W. J. WARD, IN VILLAGE OF McARTHUR, VINTON COUNTY, OHIO.

COLUMBUS, OHIO, March 24, 1932.

HON. O. W. MERRELL, *Director of the Department of Highways, Columbus, Ohio.*

DEAR SIR:—I wish to acknowledge receipt of your letter submitting for my analysis an abstract of title, warranty deed and encumbrance estimate No. 1375, relating to the proposed purchase of a parcel of land in Outlot No. 16 in the village of McArthur, Vinton County, Ohio, from one W. J. Ward.

I am of the opinion that with the exception of the taxes for the second half of the year 1931, said William J. Ward has a good and marketable fee simple title to said property, free and clear of all encumbrances.

Encumbrance estimate No. 1375 shows that sufficient money has been appropriated to pay for said land. The authority of the state controlling board has been granted.

The proposed deed submitted is executed in proper form to convey a fee simple title to the state of Ohio. Said deed makes reservations in the following words:

"This conveyance is made with this reservation, to wit; that no building is to be constructed on said premises by said Grantee or assigns within thirty feet of the south line thereof; further, this Grantee is to make and maintain a driveway on the east side thereof, the length of the adjoining Lot No. 17, where Grantor now resides, and the same to be used as a means of ingress and egress for the said Grantor, heirs and assigns and Grantee also agrees not to close the present drain running across said tract."

Enclosed please find all of the papers whose receipt I acknowledged above.

Respectfully,

GILBERT BETTMAN,
Attorney General.

4177.

CONVEYANCE OF LAND FOR HIGHWAY PURPOSES—DIRECTOR OF HIGHWAYS SHOULD INFORM COUNTY AUDITOR AS TO VALUE OF LAND CONVEYED FOR TAX LISTING PURPOSES.

SYLLABUS:

When a parcel of land is conveyed to the state for highway purposes, the director of highways, representing the state in the transaction, should furnish to the county auditor such information and proof as to the value of the parcel of land conveyed as compared with the value of the parcel or tract of land from which the conveyance is made as will enable the county auditor to make a proper division and apportionment of the entry on the tax list of the county.

COLUMBUS, OHIO, March 25, 1932.

HON. JOHN K. SAWYERS, JR., *Prosecuting Attorney, Woodsfield, Ohio.*

DEAR SIR:—This is to acknowledge the receipt of a communication from you which reads as follows:

"Representatives of the State Highway Department and certain land holders who have transferred rights of way to the State Highway Department for purposes of a public highway and the County Auditor do not seem to be able to get together on the matter of the valuation of the land so transferred so that the proper change can be made in the records of the County Auditor's office.

Representatives of the Highway Department and land owners have both asked the County Auditor to deduct from the value of the tracts of land involved the value of the tracts of land occupied or deeded to the State of Ohio for highway purposes. It seems as though both representatives of the State Highway Department and the land owners have asked the County Auditor to fix the value on the property deducted. This he refuses to do but has asked the representatives of the State Highway Department and the land owners to sign up an agreement as to the apportionment of valuation to be placed upon the real estate so transferred to the State of Ohio for highway purposes. In